

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 19792 of 1998

Between:

Velagala Muni Reddy S/o Gani Reddy
R/o Machavaram (V), Rayavaram (M),
East Godavari Dist.

..... PETITIONER

AND

- 1 Gram Panchayat,
Machavaram (V), Rayavaram (M), E.G. District.
- 2 Revenue Divisional Officer,
Rajahmundry, E.G. District.
- 3 Mandal Revenue Officer,
Rayavaram (M), E.G. District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in taking steps to dispossess the petitioner from an extent of 20 cents in S.No.73/2, 6 of Machavaram (V), Rayavaram (M), East Godavari Dist. along with Respondents 2 and 3 as illegal, arbitrary and violative of fundamental rights guaranteed under Constitution of India, more particularly 300A and consequently direct the respondents not to interfere with petitioner peaceful possession and enjoyment of the said land and brick works therein along with the pathway to the said land, and pass

Counsel for the Petitioner:MR.T.V.S.PRABHAKARA RAO

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

ORDER:

The present writ petition is filed questioning the action of respondent No.1 in taking steps to dispossess the petitioner from an extent of Ac.0.20 cents in Survey No.73/2, 6 of Machavaram village, Rayavaram Mandal, E.G. district.

The petitioner claims to be in continuous and peaceful possession of the land in an extent of Ac. 0.20 cents in Survey No.73/2, 6 of Machavaram village, Rayavaram Mandal, East Godavari district since 1973, and that prior to his possession, his father was in possession and cultivation. The petitioner is said to have started brick works in the year 1982 and running the same. While so, in the month of June, 1998 the respondent-authorities conducted a survey in the village, and informed the petitioner to stop the brick works and threatened to dispossess him from the subject land. Questioning the said action, the petitioner filed the present writ petition seeking a direction to the respondents not to interfere with his peaceful possession and enjoyment of the said land and the brick works.

This Court while admitting the writ petition granted interim direction by order dated 14-7-1998 directing the respondents not to dispossess the petitioner from the land in his occupation without furnishing any notice and without following the due process prescribed by law.

Though the matter was admitted and interim directions were granted in the year 1998, the respondents did not file any counter in the matter, and it is only after this Court passed an order on 12-4-2005, did the respondents filed a counter affidavit.

In the counter affidavit, it is stated that applications were made by people belonging to weaker sections of the society for grant of house site pattas by acquiring the Endowment land in Survey Nos. 56/2, 56/3, 57 and 73/2, and the Mandal Revenue Officer, Rayavaram, after making necessary enquiries with regard to eligibility of the beneficiaries for provision of house sites, submitted land acquisition proposals for

acquisition of land measuring Ac.7.09 cents in Survey Nos. 56/2, 56/3, 57 and 73/2. A draft notification and draft declaration were submitted to the District Collector, Kakinada and the same were approved vide proceedings dated 10-3-1996 and 11-3-1996, and published in East Godavari District Gazette on 18-3-1996 and 21-3-1996 respectively. Keeping in view the urgency in the matter, enquiry under section 5-A of the Land Acquisition Act, 1894 was dispensed with by invoking the urgency clause in Section 17(4) of the Land Acquisition Act, 1894 and the substance of the said notification was got published in the village within the stipulated period. Notices under section 9(1) and (3) and 10 of the Land Acquisition Act, 1894 were issued for publication and for service on the persons concerned, and at that stage one Smt Velagala Kamalamma filed W.P. No. 5888 of 1996 claiming herself to be tenant of the subject land belonging to Sri Veereswara Swamy Varu temple, and sought that she be not dispossessed. The said writ petition, by order dated 26.3.1996, was disposed of by this Court with certain directions, and in terms of the said directions, the Revenue Divisional Officer/Land Acquisition Officer, Rajahmundry, conducted enquiry under Section 5-A of the Land Acquisition Act, 1894 on 15-12-1997, and submitted a report to the District Collector. Thereafter the Joint Collector, Kakinada, inspected the proposed land under acquisition measuring Ac. 7.09 cents in Survey Nos. 56/2, 56/3, 57 and 73/2 of Machavaram village on 2-6-1998 for approval of preliminary valuation. While the matter stood at that stage, the petitioner filed the present writ petition and obtained interim directions from this Court on 14-7-1998. It is further stated that in obedience to the orders of this Court, excepting the land claimed by the petitioner in the writ petition, admeasuring Ac.0.31 cents in Survey No.73/2, the possession of remaining land to an extent of Ac.6.78 cents in Survey Nos. 56/2, 56/3 and 57, was taken by the Mandal Revenue Officer, by way of panchanama conducted on 1-7-1999, and the acquired land was even distributed to the beneficiaries on 31-1-1999, and majority of the beneficiaries constructed houses and are residing therein. As regards the claim of the petitioner, it is stated that the petitioner is owner of land in Survey No.73/6, and has no manner of right whatsoever over the subject land covered under survey No.73/2, and that he is not at all a tenant of the subject land, and he is in unauthorized possession of the same. It is specifically contended that the petitioner has not filed any objections before the Land Acquisition Officer and has directly approached this Court with false pleas and obtained interim orders of this Court.

Heard learned counsel for petitioner and Mr. D.Srinivas, learned Standing Counsel

for respondent No.1 and the learned Government Pleader for Panchayat Raj for respondent Nos. 2 and 3.

Though the petitioner claims to be the tenant of the land in question, belonging to Veereswara Swamyvari Temple, the same is disputed by the respondents, and it is contended that the petitioner is an encroacher of the land in question. Be that as it may, before acquiring the land in question along with other lands, the respondents followed the procedure prescribed for acquisition under the Land Acquisition Act, 1894. Though enquiry under Section 5-A of the Land Acquisition Act, 1894 was conducted on 15-12-1997, the petitioner did neither participated in the enquiry nor filed his objections. The petitioner without participating in the enquiry and without filing his objections, has filed this writ petition and obtained interim orders not to dispossess him from the land in question. The petitioner except stating that he is the tenant of the land in question, belonging to Veereswara Swamyvari Temple, has not filed any material to substantiate his claim that he is tenant of the land in question. In the absence of any material filed by the petitioner to substantiate his claim that, he in fact, is the tenant of the land in question, belonging to Veereswara Swamyvari Temple, I see no reason interfere with the acquisition proceedings.

The writ petition fails and the same is accordingly dismissed. The interim order granted by this Court pending disposal of the writ petition stands vacated. No costs.

N.V.RAMANA,J

25-4-2005

TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 Gram Panchayat,
Machavaram (V), Rayavaram (M), E.G. District.
- 2 Revenue Divisional Officer,
Rajahmundry, E.G. District.
- 3 Mandal Revenue Officer,
Rayavaram (M), E.G. District.

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